

# BILL AND REPORT OF JOHN A. BINGHAM,

## AND VOTE ON ITS PASSAGE,

REPEALING THE TERRITORIAL NEW MEXICAN LAWS ESTABLISHING SLAVERY AND AUTHORIZING EMPLOYERS TO WHIP "WHITE PERSONS" AND OTHERS IN THEIR EMPLOYMENT, AND DENYING THEM REDRESS IN THE COURTS.

The laws thus repealed by the people's Representatives in Congress are herein set forth.

A vote on the passage of the bill in the House, the 10th May, 1860, is also set out. All who voted for the passage of the bill are Republicans, and all who voted against its passage are Democrats or South Americans, except Mr. FAY, of Massachusetts.

The white slave code of New Mexico, it will be seen, subjects and authorizes all white laboring men and women to be whipped by their employers, and denies them any redress for such outrages in courts of justice. (See sec. 4 of act regulating masters and servants.)

The black slave code allows *any person* to arrest any one whom he calls an absconding slave, *by force*, and without any legal process from any court or magistrate, and to deliver such person so arrested to the sheriff of the county in which the arrest may be made, which sheriff shall imprison such person for six months, (without a commitment,) and advertise him as a master, and if no master come, shall imprison six months longer, and advertise for sale; and at the end of twelve months imprisonment, the sheriff shall sell such person, at public door of the jail or court-house, to the highest bidder, for cash, and his *bill of sale* "shall stand in the purchaser a good and indefeasible title against all persons whatever," not excepting the sold man's right to himself!

The following letter, from Hon. MIGUEL A. ARANGO, the Delegate in Congress of New Mexico, dated 16th December, 1858, to A. M. Jackson, shows that this slave code had its origin in

Congressional, Southern, and Executive intervention:

HOUSE OF REPRESENTATIVES, D. C.,  
December 16, 1858.

SIR: I have been requested by General R. DAVIS, of Mississippi, to write you a letter, requesting you to draw up an act for the protection of property in slaves in New Mexico, and cause the same to be passed by our Legislature.

I know that the laws of the United States, the Constitution, and the decision of the Supreme Court in the Dred Scott case, establishes property in slaves in the Territories, but I think something should be done on the part of our Legislature to protect it. You will perceive at once the advantages that will result from the passage of such a law for our Territory, and I expect you will take good care to procure its passage.

Immediately after its passage, you will dispatch copies to all the principal newspapers in the Southern States for publication, and also a copy to the New York *Herald* "very quick."

Very respectfully, your obedient servant,  
MIG. ANTO OTERO.

Hon. A. M. Jackson,  
Secretary of the Territory of New Mexico.

The following extract from a letter written by a resident of the Territory, to a member of the present House of Representatives, dated Barclay's Fort, New Mexico, April 10, 1860, will show the demon spirit of the slave driver and man stealer:

"At my solicitude, Judge Keithly (who was Speaker of the House of Representatives in the Legislature of New Mexico) introduced a bill for the repeal of the slavery law, but as he is a plain, honest, straight-forward old farmer, he took no steps to get backers amongst the other

members of the Legislature, holding that the bill was certain to pass on its own merits.

"The introduction of the bill came like a thunder-clap on those corrupt office-holders who had procured the passage of this law, and a Santa Féan arose in his place, and moved that the bill (of repeal) be rejected at once. This motion found no favor in the House, and they proceeded to the discussion of the bill, Judge Keithly making a speech in its favor, in which he was supported ably by two Mexicans, who advocated its passage. The opposition (to the repeal) having nothing to say, and dreading the result of a free discussion of the question on public opinion, the House adjourned. \* \* \*

What they despaired of effecting in the House, they determined to accomplish by an outside pressure. Government officials kept open house that night. John Barleycorn did his work, and 'mint drops' were freely administered where other means failed. \* \* \* One of the Mexicans, who advocated the passage of the bill (for repeal) was brought over by the promise of the Speakership. The result was, that on entering the House the following morning, Judge Keithly was presented with a note by the Doorkeeper, informing him that the Speaker's chair was vacant, and the member above mentioned (the Mexican) was at once installed in the chair. Judge Keithly entered a solemn protest against these summary proceedings, and defended his right to express his own opinions, and those of the people he was sent to represent, but could gain no hearing. He demanded that the proceedings in his case should be entered on the journal of the House, but this was refused. He resigned his seat, and returned home, heartily disgusted with the leaders of the party with which he had previously acted. He now understands exactly what *National Democracy* means."

Mr. DOUGLAS made his boast in the Senate, in his speech of the 16th May, 1860, that the South had, by squatter sovereignty, gained territory to slavery in New Mexico.

In the House of Representatives, February 16, 1860, "Mr. BINGHAM, on leave, introduced the following bill:

A bill to disapprove and declare null and void all Territorial acts and parts of acts heretofore passed by the Legislative Assembly of New Mexico which establish, protect, or legalize involuntary servitude or slavery within said Territory, except as punishment for crime, upon due conviction.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all acts and parts of acts heretofore passed by the Legislative Assembly of the Territory of New Mexico which in any wise protect, authorize, or legalize involuntary servitude, or the enslavement of human beings within said Territory, (except as punishment for crime, upon due conviction,) be, and the same are hereby, disapproved by

the Congress of the United States, and declared to be null and void, and of no effect.

SEC. 3. *And be it further enacted,* That the following provision of the act of said Legislative Assembly, approved January 26, 1859, entitled "An act amendatory of the law relative to contracts between masters and servants," be, and the same is hereby, disapproved, and declared inoperative and void, to wit: "No court of this Territory shall have jurisdiction nor shall take cognizance of any cause for the correction that masters may give their servants for neglect of their duties as servants."

SEC. 3. *And be it further enacted,* That sections two, three, four, five, seven, eight, ten, eleven, twelve, thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-two, twenty-five, twenty-six, twenty-seven, and twenty-nine, of the act entitled, "An act to provide for the protection of property in slaves in this Territory," passed by said Legislative Assembly of said Territory, and approved February 3d, 1859, be, and the same are hereby, disapproved by Congress, and declared null and void; and all courts and Territorial or Federal officers within said Territory are hereby prohibited from exercising any authority under or by virtue of any of the said sections of said Territorial acts.

The following is the vote on the final passage of the foregoing bill:

*Yeas, (Republicans)*—Charles F. Adams, Mass.; Cyrus Aldrich, Minn.; John R. Allen, Mass.; James M. Ashley, Ohio; Elijah Babitt, Pa.; Charles L. Beale, N. Y.; John A. Bingham, Ohio; Samuel S. Blair, Pa.; Harrison G. Blake, Ohio; William D. Brayton, R. I.; James Buffinton, Mass.; Anson Burlingame, Mass.; Alfred A. Burnham, Conn.; Martin Butterfield, N. Y.; James H. Campbell, Pa.; John Carey, Ohio; Charles Case, Ind.; Clark B. Cochrane, N. Y.; Schuyler Colfax, Ind.; Roscoe Conkling, N. Y.; John Covode, Pa.; Henry L. Dawes, Mass.; Charles Delano, Mass.; R. Holland Duell, N. Y.; W. McKee Dunn, Ind.; Sidney Edgerton, Ohio; Thomas M. Edwards, N. H.; Thomas D. Eliot, Mass.; Alfred Ely, N. Y.; John F. Farnsworth, Ill.; Reuben E. Fenton, N. Y.; Orris S. Ferry, Conn.; Stephen C. Foster, Me.; Augustus Frank, N. Y.; Ezra B. French, Me.; Daniel W. Gooch, Mass.; Galusha A. Grow, Pa.; John A. Gurley, Ohio; James T. Hale, Pa.; William Heimick, Ohio; Charles B. Hoard, N. Y.; James Humphrey, N. Y.; John Hutchins, Ohio; William Irvine, N. Y.; Benjamin F. Junkin, Pa.; Francis W. Kellogg, Mich.; William Kellogg, Ill.; William S. Kenyon, N. Y.; David Kilgore, I. John W. Killinger, Pa.; De Witt C. L. Mich.; M. Lindley Lee, N. Y.; Henry C. I. necker, Pa.; Dwight Loomis, Conn.; (Lovejoy, Ill.; Gilman Marston, N. H.; J. B. McKean, N. Y.; Robert McKnight, Edward McPherson, Pa.; James K. Moor Pa.; Freeman H. Morse, Me.; John T. Ni

N. J.; Abraham B. Olin, N. Y.; George W. Palmer, N. Y.; John J. Perry, Me.; John U. Pettit, Ind.; Albert G. Porter, Ind.; John F. Potter, Wis.; Alexander H. Rice, Mass.; Christopher Robinson, R. I.; Homer E. Royce, Vt.; George W. Scranton, Pa.; Charles B. Sedgwick, N. Y.; John Sherman, Ohio; Daniel E. Somes, Me.; Francis E. Spinner, N. Y.; Benjamin Stanton, Ohio; Thaddeus Stevens, Pa.; William Stewart, Pa.; John L. N. Stratton, N. J.; Mason W. Tappan, N. H.; Cydnor B. Tompkins, Ohio; Charles R. Train, Mass.; Carey A. Trimble, Ohio; William Vandever, Iowa; John P. Verree, Pa.; Edward Wade, Ohio; Henry Waldron, Mich.; E. P. Walton, Vt.; Cadwalader C. Washburn, Wis.; Elihu B. Washburne, Ill.; Israel Washburn, jun., Me.; Alfred Wells, N. Y.; James Wilson, Ind.; William Windom, Minn.; John Wood, Pa.; John Woodruff, Conn.—97.

*Nays, (Democrats, South Americans, and Mr. Thayer of Mass.)*—Green Adams, Ky.; Garnett B. Adrain, N. J.; William Allen, Ohio; Thomas L. Anderson, Mo.; William C. Anderson, Ky.; John D. Ashmore, S. C.; William T. Avery, Tenn.; William Barksdale, Miss.; Thomas J. Barr, N. Y.; J. R. Barrett, Mo.; Thomas S. Bocock, Va.; Milledge L. Bonham, S. C.; William W. Boyce, S. C.; Lawrence O'B. Branch, N. C.; Francis M. Bristow, Ky.; John C. Burch, Cal.; Henry C. Burnett, Ky.; John B. Clark, Mo.; David Clopton, Ala.; Williamson R. W. Cobb, Ala.; John Cochrane, N. Y.; George B. Cooper, Mich.; Samuel S. Cox, Ohio; James Craig, Mo.; Martin J. Crawford, Ga.; Jabez L. M. Curry, Ala.; H. Winter Davis, Md.; John G. Davis, Ind.; Daniel C. De Jarnette, Va.; Emerson Etheridge, Tenn.; Thomas B. Florence, Pa.; Muscoe R. H. Garnett, Va.; Lucius J. Gartrell, Ga.; John T. Harris, Va.; John B. Haskin, N. Y.; George S. Hawkins, Fla.; William S. Holman, Ind.; George S. Houston, Ala.; William Howard, Ohio; George W. Hughes, Md.; James Jackson, Ga.; Albert G. Jenkins, Va.; John J. Jones, Ga.; Lawrence M. Keitt, S. C.; Jacob M. Kunkel, Md.; Lucius Q. C. Lamar, Miss.; John M. Landrum, La.; Charles H. Larrabee, Wis.; James M. Leach, N. C.; Shelton F. Leake, Va.; John A. Logan, Ill.; Peter F. Love, Ga.; Charles D. Martin, Ohio; John McQueen, S. C.; W. Poreher Miles, S. C.; John S. Millson, Va.; William Montgomery, Pa.; Laban T. Moore, Ky.; Sydenham Moore, Ala.; Isaac N. Morris, Ill.; William E. Niblack, Ind.; George H. Pendleton, Ohio; Samuel O. Peyton, Ky.; John S. Phelps, Mo.; Roger A. Pryor, Va.; James L. Pugh, Ala.; John H. Reagan, Texas; Joan H. Reynolds, N. Y.; Jetur R. Riggs, N. J.; James C. Robinson, Ill.; Thomas Ruffin, N. C.; John Schwartz, Pa.; Charles L. Seott, Cal.; William E. Simms, Ky.; Otho R. Singleton, Miss.; William Smith, Va.; James A. Smallworth, Ala.; John W. Stevenson, Ky.; Lansing Stont, Oregon; Miles Taylor, La.; Eli Thayer, Mass.; James H. Thomas, Tenn.; John W. H. Underwood, Ga.; Clement L. Vallandigham, Ohio; Zebulon B. Vance, N. C.; Edwin H. Webster, Md.; William G. Whiteley, Del.; Warren Winslow, N. C.; Samuel H. Woodson, Mo.; John V. Wright, Tenn.—90.

#### HOUSE OF REPRESENTATIVES, MAY 10, 1860.

*Mr. Bingham, from the Committee on the Judiciary, made the following report:*

The Judiciary Committee, having had under consideration the bill referred to them, entitled "A bill to repeal all acts of the Legislature of New Mexico authorizing slavery or involuntary servitude, except as punishment for crime," report the same back to the House of Representatives, with an amendment, and recommend that the same do pass, and that it be put upon its passage.

"And the committee further report that for the organization of said Territory of New Mexico by the act of September 9, 1850, (U. S. Statutes at Large, vol. 9, p. 449, sec. 7,) it is provided that "all the laws passed by the Legislative Assembly and Governor shall be submitted to the Congress of the United States, and if disapproved shall be null and void."

The Territorial statutes referred to in the bill, and certain sections whereof are disapproved thereby and declared null and void, are as follows: "An act amendatory of the law relative to contracts between masters and servants," approved by the Territorial Legislature of New Mexico, January 26, 1859.

SEC. 1. When any servant shall run away from the service of his master, he shall be considered as a fugitive from justice, and in such case it shall be the duty of all officers of the Territory, judicial or ministerial, on being informed that such persons are within the limits of their jurisdiction, to ascertain whether such persons are runaway servants or not, and if they ascertain that they are, said officers shall immediately arrest them and put them to work at public labor, or hire them out to any person so that they may be employed, with security, until their master shall be informed thereof, in order that they may demand them, and to whom they shall immediately be delivered.

SEC. 2. Every person of this Territory, either a contracted servant according to the law of contracts, or engaged on trips or as shepherds, shall be compelled to serve for the time stipulated for in the contract; and any servant so contracted who shall fail to serve by abandoning his master or property placed under his care, shall be held responsible for all costs and damages which through his neglect may result

to the owner: *Provided*, That in the same manner in which the servants shall be compelled to comply with this contract, the masters should also be equally obliged, in case any servant should fall sick on any trip, to furnish them, at their own expense, the means of cure, and shall not, under any circumstances, abandon them; but, on the contrary, shall convey them to their homes, where the said servants may be able to procure the means necessary for their subsistence.

SEC. 3. No person shall employ the servant of another without becoming responsible by such act to pay the money due on the first contract; and if they shall furnish him with any money, and the servant shall be compelled to return to the service of his first master for the reason that the second did not have or did not desire to pay the money due, in such case the second contractor shall lose his claim, or shall be compelled to wait until the servant shall have paid the money of the first contractor.

SEC. 4. No court of this Territory shall have jurisdiction nor shall take cognizance of any cause for the correction that masters may give their servants for neglect of their duties as servants, for they are considered as domestic servants to their masters, and they should correct their neglect and faults; for as soldiers are punished by their chiefs, without the intervention of the civil authority, by reason of the salary they enjoy, an equal right should be granted those persons who pay their money to be served in the protection of their property: *Provided*, That such correction shall not be inflicted in a cruel manner with clubs or stripes.

SEC. 5. Sections fourteen and fifteen of an act approved July 20, 1851, relative to contracts between masters and servants, are hereby repealed.

SEC. 6. That all acts or parts of acts, laws or parts of laws, in conflict with this act, are hereby repealed.

SEC. 7. This act shall be in force and take effect from and after its passage.

An Act to provide for the protection of property in slaves in this Territory, approved by the Territorial Legislature of New Mexico, February 3, 1859.

SEC. 1. That every person who shall be convicted of the unlawful killing of a slave, or other offence upon the person of a slave, within this Territory, whether as principal or accessory, shall suffer the same pains and penalties as if the party upon whose person the offence was committed had been a free white person.

SEC. 2. Every person who shall steal any slave with the intent that the owner, or any one having an interest in such slave, present or future, vested or contingent, legal or equitable, shall be deprived of the use or benefit of such slave, shall, upon conviction, suffer imprisonment for a term not more than ten nor less than four years, and be fined in a sum not more than two thousand nor less than five hundred dollars; and every person who shall, by vio-

lence, seduction, or other means, take and carry or entice away any slave with the like intent shall be deemed and held, for every purpose whatever, to have stolen such slave, within the meaning of this act. And every person who, knowing any slave to have been stolen as aforesaid, shall aid, assist, or advise in or about the carrying away of such slave, shall suffer the like penalties as are above prescribed against the person stealing such slave as aforesaid.

SEC. 3. Every person who shall carry or convey, or wilfully assist in carrying or conveying any slave, the property of another, with the intent or for the purpose of aiding or enabling such slave to escape out of this Territory, or within this Territory and beyond the control or recovery of his owner or master, shall, upon conviction thereof, suffer the same penalties as are prescribed in the foregoing section of this act. And in any indictment preferred against any person for the violation of any of the provisions of this act, the property in the slave shall be well laid, if charged to belong to any person having an interest in such slave, whether such interest be legal or equitable, present or future, joint or several, vested or contingent.

SEC. 4. Every person who shall forge or furnish to any negro, free or slave, any false or fabricated free papers, or false evidences, in print or writing, of the freedom of such negro, shall, upon conviction, suffer imprisonment for a term not more than five years, nor less than six months, and be fined in a sum not more than one thousand nor less than one hundred dollars.

SEC. 5. Any person who shall hire, entice, persuade, or in any manner induce any slave to absent himself from the service or custody of his owner or master, or who shall, upon any pretence, harbor or maintain any slave so absents himself from such service or custody, shall, upon conviction thereof, suffer fine and imprisonment as prescribed in section four of this act, and shall besides be liable to the owner or master in a civil suit for damages.

SEC. 6. Any person who shall endeavor to excite in any slave a spirit of insurrection, conspiracy, or rebellion, or who shall advise, countenance, aid, or in any manner abet any slave in resistance against his owner or master, shall, upon conviction, suffer imprisonment not less than three months, nor more than three years, and be fined in a sum not less than twenty-five nor more than one thousand dollars.

SEC. 7. Any person who shall sell, lend, hire, give, or in any manner furnish to any slave, any sword, dirk, bowie-knife, gun, pistol, or other fire-arms, or any other kind of deadly weapons of offence, or any ammunition of any kind suitable for fire-arms, shall, upon conviction, suffer the penalties prescribed in section six of this act: *Provided*, That nothing herein contained shall be so construed as to prohibit the owner or master of any slave from tempo-

rarily arming such slave with such weapon and ammunition for the purpose of the lawful defence of himself, his family, or property.

SEC. 8. All trade or traffic between free persons and slaves, in any article of goods, merchandise, provisions, supplies, or other commodity whatever, is hereby prohibited, unless the slave have and exhibit the permission of his owner or master, in writing, to trade or traffic, which written permission must specifically set forth the articles or commodities which said slave is authorized to sell, buy, or barter; and any person who shall violate the provisions of this section shall, upon conviction, suffer the penalties prescribed in section six of this act. And if any person other than the owner or master of such slave shall furnish to any such slave any fabricated, false, or forged permit to trade as aforesaid, he shall suffer the same penalties as are prescribed in the said sixth section of this act.

SEC. 9. Any free person who shall play with any slave at any game of cards, or any other game of skill, chance, hazard, or address, either with or without betting thereon, shall be held guilty of a misdemeanor, and be fined in a sum not exceeding one hundred dollars, or imprisoned not exceeding three months, or both, at the discretion of the court.

SEC. 10. Any person may lawfully take up or apprehend any slave who shall have run away, or be absenting himself from the custody or service of his master or owner, and may lawfully use or employ such force as may be necessary to take up or apprehend such slave; and such person, upon the delivery of such slave to his master or owner, or at such place as such master or owner may designate, shall be entitled to demand or recover by suit any reward which may have been offered for the apprehension or delivery of such slave. And if no reward has been offered, then such person so apprehending such slave shall, upon the delivery of such slave to his master or owner, or to the sheriff of the county in which such slave was apprehended, be entitled to demand and recover from such owner or master the sum of twenty dollars, besides ten cents for each mile of travel to and from the place where such apprehension was made.

SEC. 11. If any sheriff of any county within this Territory shall fail or refuse to receive and keep, with proper care, any runaway slave so offered to him for safe keeping by such person apprehending the same, or his agent, such sheriff shall, upon conviction thereof, be fined in a sum not less than five hundred dollars, to the use of the Territory; shall further be liable to the owner of such slave for his value, recoverable by civil suit, and shall be ineligible for reelection to the said office.

SEC. 12. The said sheriff, upon receiving such runaway into his custody as aforesaid, shall forthwith cause to be inserted in some public newspaper of this Territory a full and

particular description of such slave, stating therein the date of his commitment to jail as a runaway, which advertisement he shall cause to be continued for the space of six months, unless such slave shall sooner be delivered up to his owner or master, upon proof of ownership or right of possession, and payment of all costs, as hereinafter provided.

But if, at the expiration of six months from the date of the first insertion of such advertisement, no owner or master shall appear and reclaim his said slave, then it shall be the duty of the said sheriff to cause to be inserted in such newspaper a further advertisement, setting forth, as before, a full description of such slave, with the date of his commitment as aforesaid, and a recital of the former advertisement, and giving notice that upon a particular day to be named, not less than six nor more than seven months subsequent to the first insertion of such advertisement, he will, at the door of his jail or of the court house of his county, sell the said slave to the highest bidder for cash. And on the sale day so appointed, the said sheriff, or his successor in office, shall accordingly, between the hours of twelve o'clock M. and two o'clock P. M., at the place of sale, offer at public vendue and sell to the highest bidder for cash, the said slave, and shall execute to the purchaser his bill of sale for such slave, which shall vest in such purchaser a good and indefeasible title against all persons whatever: *Provided, however,* That if the owner or master shall, at any time before such sale, appear and reclaim the said slave, as hereinafter provided, and pay all costs and expenses due to the said sheriff, the taker-up, and the newspaper, (for all which the sheriff is authorized to receipt,) then such slave shall be delivered up to such owner or master.

SEC. 13. Before any slave, in custody of the sheriff as a runaway, shall be delivered up to any claimant, such claimant shall first prove by the affidavit of some disinterested person, taken before some judge, justice of the peace, or notary public, (whose official characters, if officers of another State or Territory, shall be legally authenticated,) that he, the claimant, has lost such a slave as described in the advertisement aforesaid; second, the claimant shall make his own affidavit that the slave in custody is the identical slave so lost, and to which he is entitled as owner or master, (or as agent for the owner or master, producing authority as such agent by power of attorney duly acknowledged and authenticated;) third, give bond to the said sheriff, with security to be approved by him, to indemnify him against the lawful claims of all other persons to such slave; fourth, pay all costs and charges, as follows: the fee for apprehension as aforesaid, with mileage, the sheriff's costs of one dollar for receiving such slave into custody, one dollar for each advertisement made as aforesaid, and ten cents per day for each day the said slave has

remained in his custody; and also the costs of the newspaper for the advertisement of such slave.

SEC. 14. If, after delivering up such slave to such claimant, any other person should appear and demand the said slave as his right and property, the said sheriff shall assign and deliver the said bond to such person, who may thereon institute suit in his own name, and recover the value of said slave, and all damages, from the makers of such bond; but the said sheriff shall be thereby fully acquitted of all liability on account of the said slave; *Provided*, Nothing herein shall be construed to prevent the true owner from proceeding against the person in possession of such slave, for the specific recovery of such slave, or for any other redress against such person as he may be legally entitled to.

SEC. 15. In case such slave shall be sold, as provided in section 12, then it shall be the duty of the said sheriff, after first deducting the costs and charges aforesaid, and the further costs of five per cent. upon the proceeds of such sale as his commission thereon, to pay over the surplus of such proceeds to the Territorial treasurer, taking a receipt therefor, and filing with such treasurer a statement of all costs and charges retained by him as aforesaid; and the said treasurer shall duly charge himself with and account for such proceeds as for other public funds.

SEC. 16. If any person shall fail to maintain or properly provide food, lodging, and raiment, for any slave of which he is the owner, any judge of the District Court, probate judge, or justice of the peace, may, and upon sworn information made before him shall, cause such person by his warrant to be brought before him, and upon investigation and proof of such facts, in a summary manner, without appeal. Such judge, or justice, may require such person to enter into bond, with sufficient surety, payable to the Territory, in such sum as he shall require, and conditioned for the support and maintenance of such slave in the future, which bond may at any time thereafter be put in suit upon the affidavit of any person that the same has become forfeited.

SEC. 17. When a slave shall be indicted for felony, the clerk of the court, upon the arrest of such slave, or return of such indictment, shall issue a citation to the owner or master named in such indictment, requiring him to appear and defend his said slave; and in case such owner or master shall not so appear, it shall be the duty of the court trying the same to appoint counsel for such slave, who shall be authorized to direct the summons of all witnesses for the defence, and in all respects to conduct the same; and the court shall allow to such counsel a reasonable fee for his services, and tax the same as other costs, and award execution against the owner therefor.

SEC. 18. Any owner of a slave indicted and

convicted of cruel and inhuman treatment to such slave shall be punished by imprisonment not more than one year, and a fine not more than one thousand dollars.

SEC. 19. Any owner of a slave who shall suffer such slave to hire his own time, or go at large and employ himself as a free man, for more than twenty-four hours for any one time, shall, upon the conviction thereof before any justice of the peace, be fined in a sum not exceeding one hundred dollars, to inure to the county treasury.

SEC. 20. Any slave who shall conduct himself disorderly in a public place, or shall give insolent language or signs to any, free white person, may be arrested and taken by such person before a justice of the peace, who, upon trial and conviction in a summary manner, shall cause his constable to give such slave any number of stripes upon his bare back not exceeding thirty-nine.

SEC. 21. When any slave shall be convicted of any crime or misdemeanor, for which the penalty assigned by law is in all or in part of a sum of money, the court passing sentence upon him may, in its discretion, substitute for such fine corporal punishment by branding or with stripes.

SEC. 22. No slave, free negro, or mulatto, shall be permitted to give evidence in any court against a free white person, but against each other they shall be competent witnesses.

SEC. 23. Marriages between white persons and slaves or free negroes or mulattoes are prohibited, and such rites of matrimony are declared void; and any free white person attempting to enter into or procure a marriage with such slave, or free negro or mulatto, upon indictment and conviction, shall be punished with imprisonment not exceeding six months, and fine not exceeding three hundred dollars.

SEC. 24. Any slave, free negro, or mulatto, who shall commit or attempt to commit a rape upon the person of any white woman, shall, upon conviction thereof, suffer death.

SEC. 25. The emancipation of slaves within this Territory is totally prohibited.

SEC. 26. No slave shall be permitted to go from the premises of his owner or master after sunset and before sunrise without a written pass specifying the particular place or places to which such slave is permitted to go; and any white person is authorized to take any slave who, upon demand, shall not exhibit such pass, before any justice of the peace, who, upon summary investigation, shall cause such slave to be whipped with not more than thirty-nine stripes upon his bare back, and to be committed to the jail or custody of a proper officer, to be released the next day, on the demand and payment of costs by the owner or master.

SEC. 27. Any person claiming to be entitled to the possession of any slave which is withheld from him, may either institute his action

of replevin therefor as for other property, or upon his sworn petition, directed to the district judge of the district wherein such slave may be, shall be entitled to the writ of *habeas corpus* directed to the person having such slave in possession, upon which such proceedings shall be had as are now had upon such process when instituted for other persons; and if the judge, upon hearing such, shall see fit, he may require the party to whom he adjudges the possession of the slave to enter into such bond, to such amount, and with such security as he shall approve, payable to the adverse party, conditioned for the safe delivery of said slave, to abide the judgment or decree of any court of competent jurisdiction, which may be rendered in any suit to be instituted within six months from the date of such bond, which bond, upon breach thereof, may be prosecuted to judgment against the makers of the same, or any of them, by the payee thereof, his executors, or administrators, or assigns; and any court of chancery shall entertain a bill for the specific recovery of any

slave without allegation or proof of peculiar value or *pretium affectionis*.

Sec. 28. Any person who shall hold as slave any negro or mulatto who is entitled to his freedom, shall, upon conviction, suffer imprisonment for a term not exceeding ten nor less than five years, and be fined in a sum not less than five hundred nor more than two thousand dollars.

Sec. 29. When a word in this act is used in the masculine form it shall include the feminine; where used in the singular, it shall include the plural, and *vice versa*; and the word "master" shall be taken to include any person who, whether as owner, bailee, or otherwise, has or is entitled to have the immediate possession or control of the slave.

Sec. 30. That this act shall in no manner apply to relation between masters and contracted servants in this Territory, but the word "slave" shall only apply to the African race.

Sec. 31. That this act shall be in force from and after its passage.